

DISTRICT OF NEVADA

Defendant.

ORDER

Page 1 of 3

1 On November 30, 2016, the Court issued an Order, (ECF No. 8), remanding this case
2 back to the Las Vegas Justice Court. In the instant Motion, Defendant asks the Court to
3 reconsider its Order and reinstate this case in this Court. (*See* Mot. to Reconsider, ECF No. 10).

4 **II. LEGAL STANDARD**

5 “[A] motion for reconsideration should not be granted, absent highly unusual
6 circumstances.” *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003). Reconsideration is
7 appropriate where: (1) the court is presented with newly discovered evidence, (2) the court
8 committed clear error or the initial decision was manifestly unjust, or (3) if there is an
9 intervening change in controlling law. *School Dist. No. 1J, Multnomah County v. ACandS, Inc.*,
10 5 F.3d 1255, 1263 (9th Cir. 1993). However, a motion for reconsideration is not a mechanism
11 for rearguing issues presented in the original filings, *Backlund v. Barnhart*, 778 F.2d 1386,
12 1388 (9th Cir. 1985), or “advancing theories of the case that could have been presented earlier,”
13 *Resolution Trust Corp. v. Holmes*, 846 F. Supp. 1310, 1316 (S.D. Tex. 1994). Thus, Rules
14 59(e) and 60(b) are not “intended to give an unhappy litigant one additional chance to sway the
15 judge.” *See Durkin v. Taylor*, 444 F. Supp. 879, 889 (E.D. Va. 1977).

16 **III. DISCUSSION**

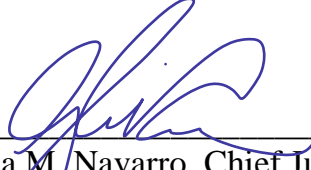
17 As the Court’s previous Order explained, Plaintiff’s Complaint for Unlawful Detainer
18 asserts only state law claims. *See, e.g., Wachovia Mortg., FSB v. Rabb*, No. 2:15-cv-03903-
19 ODW AS, 2015 WL 3454558, at *1 (C.D. Cal. May 29, 2015) (compiling cases).
20 Nevertheless, Plaintiff’s Motion cites various federal statutes as well as the United States
21 Constitution, which she insists invoke this Court’s federal question jurisdiction pursuant to 28
22 U.S.C. § 1331. (*See* Mot. to Reconsider) (arguing, *inter alia*, that the state court case is
23 “preempted by the Civil Rights of 1855”). The Court has already rejected this argument.
24 (Order 2:18–20, ECF No. 8) (“To the extent that Defendant attempts to allege that her defenses
25 or counterclaims in the eviction action raise a federal question, the Court notes that defenses

1 and counterclaims cannot form a basis for federal jurisdiction.”) (citing *Vaden v. Discover*
2 *Bank*, 556 U.S. 49, 60 (2009). Having reviewed the record in this case, the Court can discern
3 no reason to reject its prior Order. Plaintiff’s Motion is therefore DENIED.

4 **IV. CONCLUSION**

5 **IT IS HEREBY ORDERED** that Plaintiff’s Motion to Reconsider, (ECF No. 10), is
6 **DENIED.**

7 **DATED** this 14 day of April, 2017.

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12 Gloria M. Navarro, Chief Judge
13 United States District Court
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